

FILED 20 MAR 5 1526USDC-ORM

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of Oregon

United States of America)

v.)

KELLY MICHAEL BURNS)

Case No. 1:20-mj-00042-CL

UNDER
SEAL

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 18, 2019 in the county of Klamath in the
District of Oregon, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 876(c)
 18 U.S.C. § 1038(a)

Mailing Threatening Communications
 False Information or Hoaxes

This criminal complaint is based on these facts:

The attached affidavit of Travis R. Gluesenkamp, which is incorporated herein

☒ Continued on the attached sheet.

Complainant's signature

Travis R. Gluesenkamp, Special Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

3/5/20

Judge's signature

City and state:

Medford, Oregon

MARK D. CLARKE, United States Magistrate Judge

Printed name and title



DISTRICT OF OREGON, ss:

AFFIDAVIT OF TRAVIS R. GLUESENKAMP

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Travis R. Gluesenkamp, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI) and have been so employed since July of 2008. I am currently assigned to the FBI office in Medford, Oregon. I completed five months training at the FBI Academy in Quantico, Virginia, where I learned the skills necessary to conduct federal criminal investigations, including investigating crime scenes, interviewing witnesses and suspects, and writing reports and affidavits. I have five years of experience working Domestic Terrorism Matters which included investigations into bombings, white powder letters, Sovereign Citizen Extremists, and Militia Extremists. I have three years of experience as an Airport Liaison Agent where I handled all crimes aboard aircraft matters at the Portland International Airport. I investigated and indicted several individuals for sexual assault, sexual assault on a minor, indecent exposure, and interference with flight crew members and other violations of federal law.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Kelly Michael Burns (hereinafter BURNS), date of birth XX/XX/1949, for violations of Title 18, United States Code, Sections 876(c) Mailing Threatening Communications, and 1038(a) False Information and Hoaxes. As set forth below, there is probable cause to believe, and I do believe, that BURNS committed Title 18, United States Code, Sections 876(c) Mailing Threatening Communications, and 1038(a) False Information and Hoaxes.

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Applicable Law

4. Title 18, United States Code, Section 876(c) prohibits whoever knowingly deposits or causes to be delivered, any communication with or without a name or designated mark that contains a threat to injure the addressee.

5. Title 18, United States Code, Section 1038(a) prohibits whoever, engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 10 of the US Criminal Code.

Statement of Probable Cause

6. On December 19, 2019, at approximately 12:15, the victim company, hereafter referred to as “the company,” received four letters addressed to four employees of the company. The letters were addressed to Adult Victim 1 (AV1), one of the Owners; Adult Victim 2 (AV2), the Production Manager; Adult Victim 3 (AV3), welding department supervisor; and Adult Victim 4 (AV4), former welding department supervisor and current welder. The envelopes were addressed by hand in black ink, and the return address was written as “secret santa.” The envelopes were postmarked in Medford, Oregon on December 18, 2019.

7. The letters, along with other mail, was retrieved from the company’s mail box by Adult Victim 5 (AV5), the front desk clerk, and given to Adult Victim 6 (AV6), the office administrator, on December 19, 2019. The letters arrived to the company via the United States Postal Service (hereinafter USPS). AV6 reviewed the mail provided by AV5 and observed what appeared to be a Christmas card addressed to AV1. AV6 used a letter opener to cut open the top

of the letter, and upon doing so, a white powdery substance fell on AV6, and on his/her desk.

AV6 immediately became concerned as that was “not a normal thing to fall out of a letter.” AV6 pried open the envelope and took a look at the card inside by grabbing the card by its corners and separating it. AV6 did not remove the letter from the envelope. As AV6 opened the letter, he/she saw the word “Anthrax” and dropped the letter. AV6 began “freaking out” and started looking for a person to tell about the letter. AV6 paged AV2 over the intercom, and he/she came up and pried open the letter, looked at it, and dumped the powder into a Wendy’s bag. A total of four letters were received by the company, and they were addressed to AV1, AV2, AV3 and AV4.

8. AV2, AV5, AV6, and Adult Victim 7 (AV7), one of the owners of the company, were exposed to the white powder, and had to be decontaminated by a HazMat Team from a Fire Department. They were decontaminated once in the parking lot of the company, and again at the hospital.

9. AV5 described the decontamination process as frightening, and he/she was terrified of the “what ifs.” AV5 missed an important school event for his/her child, and was “heartbroken” over missing the event. AV5 was given a high strength antibiotic at the hospital as a precaution, and given a prescription for an antibiotic which he/she had to take for seven days. AV5 was scared the hospital missed something, and he/she could have been exposed to something the hospital didn’t check for. AV5 stated he/she was exposed around 12:15, and was not decontaminated by the Fire Department until approximately 16:30.

10. AV6 was approximately 10 weeks pregnant at the time of exposure. AV6 became very concerned and frightened because the Firefighters were focusing their attention on her

because of the baby. AV6 was “in shock” throughout the incident. AV6 was told by the doctors at the hospital the antibiotics could harm her baby and potential cause birth defects. The doctors told her they wanted to give her a Class C antibiotic which would be “really bad” for her baby but would protect her. She was wrestling with an “ultimatum” to potentially harm her baby or run the risk of dying if the powder contained anthrax. AV6 decided to take three pills of the antibiotic.

11. The powdery substance was screened by the HazMat team, and it was negative for poisons or radiological threats. The powdery substance was tested by the Oregon Health Authority, and it was negative for ricin or biological threats, to include anthrax. The letters were sent to the FBI laboratory for chemical analysis, trace DNA, hand writing comparison, and latent finger print tests, further detailed in paragraph 24 to 26.

12. The four letters were comprised of an envelope that had a specific design from the manufacturer that corresponded to the card contained inside, and each envelope and card combination was unique. The cards contained within were Christmas cards with a pre-printed greeting. The markings on the card indicated the manufacturer had been scratched out with a pen. A review of one of the card designs via google.com indicated the cards may be vintage and have not been manufactured or sold since the mid 1970’s, but are available via various auction sites.

13. The card addressed to AV1 stated the following: “Merry anthrax cunt we will do more shit sucker.” The card addressed to AV2 stated the following: “Merry anthrax cunt! Eat shit and die more to come.” The card addressed to AV3 stated the following: “Merry anthrax shit sucker we know where you live.” The card addressed to AV4 stated the following: “Merry

anthrax asshole! More to come shit sucking fat slob!! We know where you live fuck face.”

14. Interviews were conducted with all Adult Victims, and they were read the contents of the letters. They each stated the letters were likely sent from someone who had formerly worked in the welding shop as AV3 and AV4 work in the department, and AV2 previously supervised the department. AV7 stated AV4 used to be the team leader of the welding department, and AV3 was the assistant. AV4 was relieved of her/his duties as team leader in May of 2019, and AV3 was promoted to team leader. AV2 used to supervise the department, but now another person, hired in July of 2019, is the direct supervisor of the department. AV7 and AV1 opined the person sending the letters was likely terminated from the company some time prior to May of 2019 since the letters were directed at a chain of command that no longer exists.

15. AV1 and AV7 provided the personnel files of the five employees terminated in April of 2019. A cursory review of the hand writing of each of the employees was conducted and compared to the threat letters. The hand writing of Kelly M Burns (hereinafter BURNS) appeared to SA Travis R. Gluesenkamp to match the handwriting on the threat letters. A copy of BURNS's application and tax documents were collected and sent to the FBI laboratory for analysis and comparison to the threat letters. The hand writing of the other four employees did not appear to match the hand writing in the threat letters.

16. During the interviews of the Adult Victims, it was learned from each of them that BURNS did not like to work for women, nor did he like working with women in the weld shop. He had strong feelings that women should not be performing a “mans” job. He was a quiet guy that mostly kept to himself. In the spring of 2019, the company hired an efficiency contractor to

come and evaluate the company and make changes to their production line. BURNS did not like the changes and was vocal about his displeasure with the new assembly line procedures.

BURNS was a slow worker, and the new assembly line exposed him as a slow worker. It was learned during the review by the contractor that BURNS would spend a full day working on one project and would sometimes redo it to avoid having to start a new project. BURNS was laid off in April of 2019, and was told he would not be rehired. He was laid off by AV1 and AV2, and AV4 was his team leader.

17. AV3 stated BURNS was mad at the company when he left, but he did not seem mad enough to send threatening letters. BURNS did not like women in authority positions. BURNS "hated" AV4 and AV2. BURNS would regularly refer to women as "cunts." BURNS was the only person employed at the company AV3 ever heard call a person a "cunt."

18. AV2 has been speaking to people working in the welding department, and a welder reported to AV2 the following: "It was after OMEP started and you were in the weld shop saying that we need to hurry that Kelly got super mad. He told [co-worker], 'I hate that cunt' and that he had a problem with you outside of work. Then he said that when he leaves he's going to take this place down."

19. AV4 stated he/she lives approximately one city block from BURNS' residence. AV4 has to drive past BURNS' residence to get to his/her home. AV4 used to see BURNS in his yard regularly, and he/she has not seen BURNS in his yard for several months. BURNS and AV4 used to wave at each other as they would drive past each other.

20. On February 13, 2020, AV7 reported the company had received four more letters addressed to AV1, AV2, AV3, and AV4. The envelopes were addressed by hand in black ink

and post marked in Medford, Oregon on February 12, 2020. The return address was listed as "Happy (heart symbol.)" The letters were delivered by the USPS to the company's mail box. AV7 retrieved the mail from the mailbox and provided it to AV6. AV6 reviewed the mail received on February 13, 2020, and observed that the four letters had a no return address, were addressed to the same four Adult Victims, and the letters appeared to be from the same sender of the letters received on December 19, 2019. AV6 didn't open the letters, and notified AV7. AV7 placed the letters into a plastic bag.

21. The letters were screened by the National Guard Civil Support Team on February 20, 2020, for chemical and radiological threats with negative results. The powdery substance was tested by the Oregon Health Authority, and it was negative for ricin or biological threats, to include anthrax. The letters were sent to the FBI laboratory for chemical analysis, trace DNA, hand writing comparison, and latent finger print tests.

22. The four letters were comprised of a blank white envelope and a Valentine's Day card. The card was manufactured by American Greeting. The card contained a greeting printed by the manufacturer on the front and inside of the card. All of the cards appeared to be the same. The envelopes contained an unknown white powdery substance.

23. The card addressed to AV1 stated the following: "Happy Anthrax we visit your wettos soon." The card addressed to AV2 stated the following: "Happy Anthrax maybe we get your family to (sic)." The card addressed to AV3 stated the following: "Happy Anthrax maybe we get you(sic) family to (sic)." The card addressed to AV4 stated the following: "Happy Anthrax Shit Sucker."

24. On February 26, 2020, the FBI laboratory completed a chemical analysis of the

powder contained in the threat letters sent on December 18, 2019. The analysis showed the powder contained a substance called Carbaryl, which is an insecticide marketed under the name Sevin by the Bayer Corporation. Per a google search, Carbaryl is a cholinesterase inhibitor and is toxic to humans. It is classified as a likely human carcinogen by the Environmental Protection Agency (EPA), and exposure to Carbaryl should be limited. The Sevin warning label states it is hazardous to humans, and contact with eyes, skin, or clothing should be avoided.

25. On February 28, 2020, the FBI Questioned Documents Unit of the FBI Laboratory reported the hand writing on the envelopes and cards mailed on December 18, 2019 matched the known hand writing of BURNS obtained from the job application and tax documents provided by the company. The analysis is not completed, and the lab will need additional hand writing samples to complete the analysis.

26. I am aware the FBI laboratory on or about February 27, 2020, swabbed for DNA on the adhesive flap of the envelopes sent on December 18, 2019. The FBI Laboratory will be able to compare the sample(s) collected from the envelopes to a sample collected from BURNS via a buccal swab.

Conclusion

27. Based on the foregoing, I have probable cause to believe, and I do believe, that Kelly M. Burns committed Title 18, United States Code, Sections 876(c) Mailing Threatening Communications, and 1038(a) False Information and Hoaxes.

28. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) John Brassell, and AUSA Brassell advised me that in his opinion the affidavit and complaint are

legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

Request for Sealing

29. It is respectfully requested that the Court issue an order sealing, until further order of the Court, all papers submitted in support of the requested criminal complaint and arrest warrant. I believe that sealing these documents is necessary because the information to be seized is relevant to an ongoing investigation, and any disclosure of the information at this time may cause destruction of or tampering with evidence or otherwise seriously jeopardize an investigation. Premature disclosure of the affidavit, the criminal complaint, and the arrest warrant may adversely affect the integrity of the investigation.



TRAVIS R. GLUESENKAMP
Special Agent, FBI

Subscribed and sworn to before me this 5 day of March 2020.



MARK D. CLARKE
United States Magistrate Judge